



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

00013

EPA Region 5 Records Ctr.



247075

REPLY TO THE ATTENTION OF

April 8, 1999

C-14J

VIA FACSIMILE

Mr. Rodney Griffith
Associate General Counsel
Conrail
fax: (215) 209-4817

Re: Access to Conrail Property, Tilton, Illinois

Dear Mr. Griffith:

Thank you for responding to the United States Environmental Protection Agency's (U.S. EPA) request for access to the Conrail property located adjacent to the Tilton Plating removal site in Tilton, Illinois.

Recently, U.S. EPA contacted Christina Kazokas, Conrail, by telephone about obtaining access to Conrail's railroad right-of-way property located adjacent to Tilton Plating, 305 Fairfield, Tilton, Illinois. As a follow-up to that telephone conversation, on March 31, 1999, I faxed Ms. Kazokas several maps of the Tilton site, as well as a cover letter seeking authority for U.S. EPA to enter the Conrail property and a voluntary access agreement, which would memorialize such voluntary consent. The cover letter requested that Conrail respond to the request for access authority by April 6, 1999. On April 6, I received a phone call from Ms. Kazokas notifying me that she had referred our request for voluntary access to Conrail's legal department for review. U.S. EPA received Conrail's response, dated April 7, 1999, via facsimile and UPS today, April 8, 1999. Your reply does not include the executed agreement. Instead, you have returned a "License Agreement" which seeks to impose conditions on U.S. EPA's access, including financial requirements.

U.S. EPA shares Conrail's concerns about safety at the site. The U.S. EPA On-Scene Coordinator, Cindy Nolan will work with any individual Conrail designates to address safety concerns. She can be reached at (312) 886-6246. U.S. EPA, however, cannot accept Conrail's attempt to condition access.

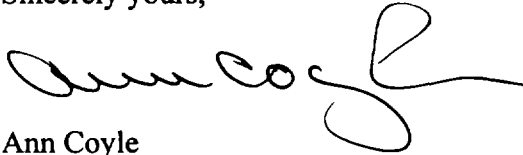
Under the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9601 et seq., U.S. EPA is authorized unconditional access for purposes of investigating the need to take a response action, as well as for taking a response action. 42 U.S.C. § 9604(e). Further, 40 C.F.R. § 300.400(d)(4), clarifies that if consent is conditioned in any way, U.S. EPA may exercise its statutory and regulatory authority to secure access to property that may be subject to a response action under CERCLA or its implementing regulations, as well as adjacent property.

Unless Conrail returns executed voluntary access agreement by noon on April 9, 1999, U.S. EPA will assume that Conrail refuses to give voluntary access to the property. If the executed voluntary access agreement is not returned by that time, U.S. EPA may then pursue its statutory and regulatory authorities to secure access.

The signed voluntary access agreement may be faxed back to my attention at: (312) 886-0747, with the original executed access agreement mailed back to me.

Please contact me at (312) 886-2248, if you have any questions concerning this matter. Thank you for your assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Ann Coyle', with a long, sweeping horizontal line extending to the right.

Ann Coyle
Assistant Regional Counsel

*** TRANSMISSION REPORT ***

APR-08-99 17:26 ID:

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U. S. Environmental Protection Agency



Office of Regional Counsel
Region 5

FACSIMILE TRANSMITTAL FORM

Date: 4/8/99
Fax Recipient: Rod Griffith
Dept/Agency: Conrail
Fax number: 212/209-4817
Fax Sender: Ann Conley
Dept/Agency:
Telephone: 212/886-2248
Fax Number: 212/886-0347
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